



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3501 FAX (603) 271-6683



Thomas and Alison Brackett
22 Brackett's Point Road
Greenland, NH 03840

ADMINISTRATIVE ORDER
No. WD 04-020

September 2, 2004

Re: 1 Brackett's Point, Greenland

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Thomas and Alison Brackett pursuant to RSA 485-A:42. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Thomas J. Brackett and Alison R. Brackett ("the Bracketts") are individuals having a mailing address of 22 Brackett's Point Road, Greenland, NH 03840.

C. STATEMENTS OF FACTS AND LAW

1. RSA 485-A:29-44 authorizes DES to regulate the subdivision of land and the construction, maintenance, and repair/replacement of individual sewage disposal systems ("septic systems"). Pursuant to rulemaking authority conferred therein, the Commissioner of DES has adopted Env-Ws 1000 to implement this program.
2. The Bracketts are owners of a series of rental cabins located on Brackett's Point Road at Brackett's Point, Greenland.
3. RSA 485-A:2, IV and Env-Ws 1002.16 define septic failure as "the condition produced when a subsurface sewage or waste disposal system does not properly contain or treat sewage or causes or threatens to cause the discharge of sewage on the ground surface or into adjacent surface or groundwaters."
4. RSA 485-A:13, I prohibits the discharge of any sewage or waste to the surface water or groundwater of the state without a written permit from DES.
5. RSA 147:8 prohibits any person from occupying or allowing the occupation of any building unless the building has suitable drains or sewers for conveying waste water and sewage away from the premises ...underground or in some other manner that will not be offensive.

6. On August 13, 2004, DES personnel received a complaint about potential septic failure and drinking well contamination on property located at 11 Brackett's Point Road. This property is one of the rental cabins owned by the Bracketts. The complaint included allegations of health problems resulting from the potential septic contamination.
7. On August 18, 2004, DES personnel inspected property located at 11 Brackett's Point Road. As part of that inspection, DES personnel added colored dye to the toilet water of the residence.
8. This inspection revealed that leachate from the septic system serving this property is breaking the ground surface and running into the waters of Great Bay, a public water of the State of New Hampshire.
9. A review of DES records shows that no permit has been issued under RSA 485-A:13, to allow the discharge of sewage to Great Bay from the Brackett's property.

D. DETERMINATION OF VIOLATIONS

1. Thomas and Alison Brackett have violated RSA 485-A:13, I by discharging or allowing the discharge of sewage from their Property to Great Bay without a permit.
2. Thomas and Alison Brackett have violated RSA 147:8 by allowing others to occupy a building or dwelling without providing said building or dwelling with suitable drains or sewers for conveying waste water and sewage away from the premises underground or in some manner that is not offensive.

E. ORDER

Based on the above findings, DES hereby orders the Bracketts as follows:

1. Engage a permitted septic system designer to prepare and submit septic system plans and specifications to DES.
2. Obtain approval to construct the system
3. Construct and obtain approval to cover and use the new system. Contact your DES regional inspector at (603) 431-8141 to schedule an inspection after the new system is constructed, but before it is back-filled or put into use.
4. Operate and maintain the system in accordance with NH Administrative Rule Env-Ws 1023
5. During the interim between receipt of this Order and the date by which permanent corrections have been completed, as an alternative to vacating the premises, pump all collected sewage and dispose of it in accordance with NH Administrative Rule Env-Ws 1600 at sufficiently frequent intervals to prevent further overflow. Retain all pumping receipts and provide copies of said receipts to the Town of Greenland and DES.

6. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Richard J. de Seve, Compliance Supervisor
Subsurface Systems Bureau
DES Water Division
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095
Fax: (603) 271-6683
e-mail: rdeseve@des.state.nh.us

F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Bracketts of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself

This Order is being recorded in the Rockingham County Registry of Deeds so as to run with the land.


COPY
Harry T. Stewart, P.E., Director
Water Division


COPY
Michael P. Nolin, Commissioner
Department of Environmental Services

Certified Mail/RRR: 7099 3400 0003 0696 1487

cc: Gretchen R. Hamel, Legal Unit Administrator ✓

W.E. Evans, P.E., Administrator, DES/SSB

Public Information Officer, DES PIP Office

Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB

Town of Greenland Board of Selectmen